

January 9, 2003

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 9th day of January 2003, at 8:00 P.M., and there were

PRESENT: JOSEPH GIGLIA, MEMBER
 WILLIAM MARYNIEWSKI, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: ANTHONY ESPOSITO, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 RICHARD SHERWOOD, TOWN ATTORNEY
 JEFFREY SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF DAVID & MICHELLE BARBARO

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of David and Michelle Barbaro, 577 Erie Street, Lancaster, New York for one [1] variance for the purpose of constructing an attached two [2] car garage to an existing dwelling and conversion of the existing attached garage to living quarters on property owned by the petitioners at 577 Erie Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9C.(3)(b)(1) of the Code of the Town of Lancaster. The location of the proposed attached garage would result in an east side yard set back of four point one zero [4.10] feet.

Chapter 50, Zoning, Section 9C(3)(b)(1) of the Code of the Town of Lancaster requires a ten (10) foot east side yard set back. The petitioners, therefore, request a five point nine zero (5.90) foot east side yard variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PROPOSERS
Michelle Barbaro, petitioner

ADDRESS
577 Erie Street

OPPOSERS
None

ADDRESS

IN THE MATTER OF THE PETITION OF DAVID & MICHELLE BARBARO

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. GIGLIA
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of David & Michelle Barbaro and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of January 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That while the requested area variance relief is substantial, it will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the neighbor most affected by the granting of said variance, specifically the resident to the immediate east of subject property, has no objection to the granting of the requested variance and has submitted a letter dated December 11, 2002 granting approval of the petitioner's request for said variance.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

1/9/2003

PETITION OF TIMOTHY HANISZEWSKI:

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Timothy Haniszewski, 1159 Ransom Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 1159 Ransom Road, Lancaster New York, to wit:

1. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed pole barn is five thousand [5,000] square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a four thousand two hundred fifty [4,250] square foot accessory structure area variance.

2. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is twenty four point five [24.5] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests an eight point five [8.5] foot height variance.

PROPONENTS
Timothy Haniszewski

ADDRESS
1159 Ransom Road

OPPONENTS
None

ADDRESS

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

A motion was made by Mr. Thill, seconded by Mr. Lehrbach, to close this hearing to further evidence and testimony. The motion was duly put to a vote which resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

IN THE MATTER OF THE PETITION OF TIMOTHY HANISZEWSKI

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SCHWAN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Timothy Haniszewski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of January 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the parcel of land is approximately thirty four point nine (34.9) acres.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought and that the addition of the proposed accessory structure will have a beneficial effect on the surrounding neighborhood.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however the granting of the variance will not have an adverse effect on the neighborhood.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the applicant intends to use the new storage space to improve his yard.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That the premises contains the following accessory structures, two (2) frame barns and three (3) sheds with an approximate area of three thousand five hundred (3,500) square feet.

That the primary dwelling area is approximately one thousand four hundred seventy (1,470) square feet.

That the applicant is a race car enthusiast who stores race cars on the premises which he uses as a hobby.

That the entire accessory structure use will be approximately eight thousand five hundred (8,500) square feet.

That the Building Inspector has testified that the petitioner has received citations from the Town of Lancaster for outside storage of unregistered and unlicensed vehicles which is a violation of the Code of the Town of Lancaster; and in the opinion of the Building Inspector, the additional structure will help to alleviate the outside storage situation.

That the purpose of the proposed large pole barn is to store an oversized four (4) wheel tractor as well as many of the race cars and other vehicles.

That the applicant proposes to store all vehicles, equipment and other items which are currently outdoors within the proposed pole barn.

That the proposed structure will alleviate the current equipment storage situation.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

1. That no commercial enterprise, other than those which are permitted by Code of the Town of Lancaster, will be conducted on the premises.
2. That no tow trucks will be dispatched from the subject premises.
3. That the siding of the requested structure be of earhtone color.
4. That the roof of the requested structure be of a dark color; white or silver is NOT acceptable.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

1/9/2003

PETITION OF BELLA VISTA GROUP, INC.:

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Bella Vista Group, Inc. on behalf of NEC Transit/William LLC, 6495 Transit Road, Bowmansville, New York 14026 for six [6] variances for the purpose of construction of a shopping center at the north east corner of Transit Road and William Street in the Town of Lancaster, to wit:

1. A variance from the requirements of Chapter 50, Zoning, Section 28F.(1)(a) of the Code of the Town of Lancaster. The petitioner proposes to create parking spaces of eighteen [18] feet in length.

Chapter 50, Zoning, Section 28F.(1)(a) of the Code of the Town of Lancaster requires parking spaces be a minimum of twenty [20] feet in length. The petitioner, therefore, requests a two [2] foot variance.

2. A variance from the requirements of Chapter 50, Zoning, Section 28G.(5) of the Code of the Town of Lancaster. The petitioner's plans call for three (3) off-street loading spaces provided for a building with an approximate gross area of one hundred fifty thousand (150,000) square feet.

Chapter 50, Zoning, Section 28G.(5) of the Code of the Town of Lancaster requires six (6) off-street parking spaces. The petitioner, therefore, requests a variance of three [3] off-street loading spaces from the required six [6] off-street loading spaces.

3. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][b] of the Code of the Town of Lancaster. The height of the proposed pole sign is thirty [30] feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][b] of the Code of the Town of Lancaster limits the maximum height of a pole sign to twenty-five [25] feet. The petitioner, therefore, requests a five [5] foot sign height variance.

4. A variance from the requirements of Chapter 50, Zoning, Section 19C.(7) of the Code of the Town of Lancaster. The petitioner proposes to not completely enclose the seasonal outdoor sales.

Chapter 50, Zoning, Section 19C.(7) of the Code of the Town of Lancaster requires that all principal and accessory uses, except signs, landscaping and off-street parking, loading and stocking shall be conducted within completely enclosed structures. The petitioner requests a variance from the complete enclosure requirements for seasonal sales.

5. A variance from the requirements of Chapter 50, Zoning, Section 23B.(3) of the Code of the Town of Lancaster. The petitioner requests lighting fixtures to be placed at a height of thirty-two [32] feet.

Chapter 50, Zoning, Section 23B.(3) requires that lighting fixture height above grade shall not exceed fifteen [15] feet in or adjacent to a residential district or use, and in no instance shall they exceed twenty [20] feet above grade. The petitioner, therefore, requests a variance of twelve [12] to seventeen [17] feet.

6. A variance from the requirements of Chapter 50, Section 29D.(3) of the Code of the Town of Lancaster. The petitioner's plans call for approximately one (1) percent of the interior of the parking area devoted to landscaping.

Chapter 50, Section 29D.(3) of the Code of the Town of Lancaster stipulates that not less than five (5) percent of the interior of a parking area designed for twenty (20) cars or more shall be devoted to the required landscaped area. The petitioner, therefore, requests a variance of four (4) percent of the five (5) percent required interior parking area devoted to landscaping.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Cheektowaga of the time and place of this public hearing.

A motion by Mr. Thill, seconded by Mr. Schwan to consider each of the petitioner's variance requests individually and in the order presented in his application resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

IN THE MATTER OF THE PETITION OF BELLA VISTA GROUP, INC.

Variance #1 - Parking Space Length

The petitioner provided to the Zoning Board of Appeals testimony and evidence in support of the requested variance. Following the presentation by the petitioner, persons in attendance were allowed to speak in favor or against the variance request.

PROPOSERS

Joseph Cipolla, petitioner
Steve Ricca, Attorney

ADDRESS

35 Hillside Parkway
12 Fountain Plaza, Buffalo

OPPOSERS

David Seeger, Attorney
Paul Przybysz
Lee Chowanec
Loree Paulson

ADDRESS

69 Delaware Avenue, Buffalo
66 Northwood Drive
93 Northwood Drive
91 Northwood Drive

A motion by Mr. Thill, seconded by Mr. Lehrbach to close the hearing to further testimony and evidence with respect to Variance #1 resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

1/9/2003

Variance #2 - Off Street Parking Spaces

The petitioner provided to the Zoning Board of Appeals testimony and evidence in support of the requested variance. Following the presentation by the petitioner, persons in attendance were allowed to speak in favor or against the variance request.

PROPOSERS

Joseph Cipolla, petitioner
Steve Ricca, Attorney

ADDRESS

35 Hillside Parkway
12 Fountain Plaza, Buffalo

OPPOSERS

David Seeger, Attorney
Lee Chowanec
Martin Galczynski
Terry Richard
James Brett

ADDRESS

69 Delaware Avenue, Buffalo
93 Northwood Drive
2 Northwood Drive
105 Northwood Drive
659 Harris Hill Road

A motion by Mr. Thill, seconded by Mr. Giglia to close the hearing to further testimony and evidence with respect to Variance #2 resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

1/9/2003

Variance #3 - Pole Sign Height

The petitioner provided to the Zoning Board of Appeals testimony and evidence in support of the requested variance. Following the presentation by the petitioner, persons in attendance were allowed to speak in favor or against the variance request.

PROPOSERS

Joseph Cipolla, petitioner
Steve Ricca, Attorney

ADDRESS

35 Hillside Parkway
12 Fountain Plaza, Buffalo

OPPOSERS

Paul Przybysz
David Kratzke
David Seeger, Attorney
Loree Paulson

ADDRESS

66 Northwood Drive
14 Northwood Drive
69 Delaware Avenue, Buffalo
91 Northwood Drive

A motion by Mr. Thill, seconded by Mr. Lehrbach to close the hearing to further testimony and evidence with respect to Variance #3 resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

1/9/2003

Variance #4 - Outdoor Seasonal Sales

The petitioner provided to the Zoning Board of Appeals testimony and evidence in support of the requested variance. Following the presentation by the petitioner, persons in attendance were allowed to speak in favor or against the variance request.

PROPOSERS

Joseph Cipolla, petitioner
Steve Ricca, Attorney

ADDRESS

35 Hillside Parkway
12 Fountain Plaza, Buffalo

OPPOSERS

Terry Richard
Lee Chowanec
Paul Przybysz
Martin Galczynski
Loree Paulson

ADDRESS

105 Northwood Drive
93 Northwood Drive
66 Northwood Drive
2 Northwood Drive
91 Northwood Drive

A motion by Mr. Thill, seconded by Mr. Maryniewski to close the hearing to further testimony and evidence with respect to Variance #4 resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

1/9/2003

Variance #5 - Lighting Fixture Height

The petitioner provided to the Zoning Board of Appeals testimony and evidence in support of the requested variance. Following the presentation by the petitioner, persons in attendance were allowed to speak in favor or against the variance request.

PROPONENTS

Joseph Cipolla, petitioner
Steve Ricca, Attorney

ADDRESS

35 Hillside Parkway
12 Fountain Plaza, Buffalo

OPPONENTS

David Seeger
Lee Chowaniec
Paul Przybysz
Gary Howell

ADDRESS

69 Delaware Avenue
93 Northwood Drive
66 Northwood Drive
48 Park Blvd.

A motion by Mr. Thill, seconded by Mr. Lehrbach to close the hearing to further testimony and evidence with respect to Variance #5 resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

1/9/2003

Variance #6 - Interior Parking Landscape Area

The petitioner provided to the Zoning Board of Appeals testimony and evidence in support of the requested variance. Following the presentation by the petitioner, persons in attendance were allowed to speak in favor or against the variance request.

PROPONENTS

Joseph Cipolla, petitioner
Steve Ricca, Attorney

ADDRESS

35 Hillside Parkway
12 Fountain Plaza, Buffalo

OPPONENTS

Paul Przybysz
David Seeger
Gary Howell
Terry Richard
Moira Reichard

ADDRESS

66 Northwood Drive
69 Delaware Avenue
48 Park Blvd.
105 Northwood Drive
128 Northwood Drive

A motion by Mr. Thill, seconded by Mr. Lehrbach to close the hearing to further testimony and evidence with respect to Variance #6 resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

Motion Carried

1/9/2003

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. GIGLIA
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Bella Vista Group, Inc. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 9th day of January 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has closed the hearing to further testimony and evidence with respect to all of the Variance requests, namely numbers one (1) through six (6).

NOW, THEREFORE, BE IT

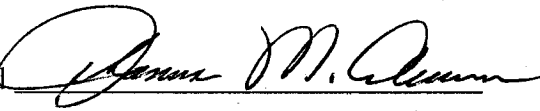
RESOLVED that a special meeting of the Zoning Board of Appeals of the Town of Lancaster be set for the 23rd day of January 2003 at 7:00 pm local time to be held in the Town Board Chambers of the Lancaster Town Hall at 21 Central Avenue, Lancaster, New York 14086, at which the Zoning Board of Appeals will take up the matter of determination of the aforementioned variances.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	WAS ABSENT
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

1/9/2003

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was
adjourned at 12:51 A.M. on January 10, 2003

Signed 

Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: January 10, 2003